THE HON'BLE SRI JUSTICE N.V.RAMANA

W.P.No.18268 of 1998

ORDER:

Questioning the impugned proceedings dated 30.4.1998 issued by the Respondent-Corporation rejecting the request of the petitioners for fixation of their pay on par with the juniors, the present writ petition is filed.

It is the case of the petitioners that they were appointed as Conductors in the respondent-Corporation between 1970 and 1974 and subsequently promoted as Assistant Depot Clerks (ADCs) between 1982 and 1989. In view of amendment to Regulation 9(1)(a) of the APSRTC Employees (Pay and Allowance) Regulations 1974, an anomaly arise and juniors who have been promoted on or after 14.11.1988 were getting more pay when compared to their seniors promoted prior to 14.11.1988. To remove the said anomaly, the Corporation issued Circular dated 3.4.1990. As per the said circular, a senior employee promoted before 14.11.1988 is entitled for the pay to be stepped up to a figure equivalent to his juniors promoted on or after 14.11.1988. The petitioners, who were effected by the said anomaly, have made representations to the respondents requesting to fix their pay in terms of circular dated 3.4.1990 and on par with their juniors viz., M. Ankaiah and B. Bose. The Corporation rejected the said representations by order dated 12.4.1993 on the ground that Bose was given family planning increment and that Ankaiah was already promoted as ADC on 14.8.1999. . Questioning the said order, petitioners filed W.P.No.20770 of 1993. A Division Bench of this Court disposed of the said writ petition by order dated 24.9.1997, which reads as under:

> "We have gone through the entire material placed before us. The grievance of the petitioners is that their pay should be fixed on par with their juniors. This is a matter to be considered by the respondents if the petitioners give representations to that effect. Since the petitioners are said to have made representations to the respondents in this regard, we feel it just and proper to direct the respondents to consider the case of the petitioners on merits and pass appropriate orders within three months from the date of receipt of a copy of this order".

Pursuant to the above order, the respondents issued impugned proceedings dated 30.4.1998 once again rejecting the claim of the petitioners on the ground that the applications of the petitioners for stepping up their pay on par with juniors were time barred as they submitted the same beyond 30.4.1990. Aggrieved by the said order, the present writ petition is filed.

The learned counsel for the petitioners contended that as per the Circular dated 3.4.1990 issued by the Corporation, the petitioners are entitled for stepping up of their pay on par with their juniors B. Bose and M. Ankaiah. He further contends that insofar as rejection of applications of the petitioners on the ground that they are time barred is concerned, a perusal of the Circular dated 10.2.1993 issued by the Respondent Corporation would disclose that the time was extended for submission of claims. He also contends that even the family planning increment of
B. Bose is excluded, his pay is more than that of the petitioners and insofar as Ankaiah is concerned, he was promoted on 14.8.1989 i.e. after the stipulated date of 14.11.1988, therefore, the petitioners are entitled to the claim under Circular dated 3.4.1990.

Per contra, the learned counsel appearing for respondent-Corporation submitted that as the claims of the petitioners are not in order, the same was rejected on 22.2.1991. Since Mr. B. Bose is given one family planning increment, the petitioners cannot compare their salary with that of Mr. Bose and that apart, the claim of the petitioners is time barred as they have not submitted within the stipulated time i.e. 30.4.1990, therefore, their cases cannot be considered.

Having heard the learned counsel for petitioners and the learned counsel for respondent-Corporation, perused the material available on record.

The petitioners herein at the earlier point of time made representation comparing their cases with one Mr. Bose, however the same was rejected on the ground that Mr. Bose was drawing family planning increment as such drawing a higher pay. Thereupon, the petitioners have renewed their representation requesting the authorities to step-up their pay and to grant the benefits on par with one Mr.Ankaiah, who is stated to be their junior. The said request was also rejected on the ground that Mr.Ankaiah was already promoted and petitioners cannot compare their case with that of Mr.Ankaiah_____. Having lost in their efforts, the

petitioners filed W.P. No. _____ and the same was disposed of by Division Bench of this Court directing the respondents to consider the cases of the petitioners on merits. Pursuant thereon, the impugned orders _____were passed rejecting the claim of the petitioners as time barred one. Thus, in nut shell, the cases of the petitioners were rejected on mere technicality as time barred one and their cases were not considered on merits in terms of the directions of this Court in W.P. _____ dated._____. The Regional Manager, instead of rejecting the claim of the petitioners as time barred ought to have remanded the matter to the Divisional Manager-2nd respondent to consider the claim of the petitioners on its own merits in terms of orders of this Court in W.P. No._____. Hence, the impugned order dated 30-4-1998 is hereby set aside and the writ petition is allowed directing the 2nd respondent to reconsider the matter afresh on its merits and pass appropriate speaking orders in accordance with law, expeditiously.

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rejecting the claim of the petitioners as time barred one, is

Hence, I deem it

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and later on having realized the mistakThe impugned order dated 30.4.1998 indicate that the claim of the petitioners was rejected as time barred. The Division Bench of this Court in W.P. _____ dated _____ has already directed the respondents to consider the case of the petitioners on merits and to pass appropriate orders. Whereas, by the impugned order dated 30-4-1998, the cases of the petitioners were rejected as time barred one, without going into the merits.

indicate The Corporation has issued the Circular dated 3.4.1990 in order to remove anomaly of pay of senior employees who were promoted before 14.11.1988, who were stepped up to a figure equal to the pay fixed for the junior who has been promoted on or after 14.11.1988 under the amended regulation. In view of the same, the cases of the senior employees who were promoted before 14.11.1988 have to be considered for stepping up of their pay

on par with their juniors subject to the conditions mentioned in the said Circular i.e. (a) to (g). Inasmuch as the petitioners fulfill the conditions stipulated in circular dated 3.4.1990, their cases cannot be rejected, merely on the ground that their claim is a time barred one. When

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N.V.RAMANA, J

Date: 13.12.2005

KSR/DA